



INTERNATIONAL LAW  
JOURNAL

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**WHITE BLACK  
LEGAL LAW  
JOURNAL**  
**ISSN: 2581-  
8503**

**Peer - Reviewed & Refereed Journal**

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **HIDDEN HORRORS: UNCOVERING THE DYNAMICS OF CHILD TRAFFICKING AND THE ROAD TO PREVENTION**

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## **ABSTRACT**

In the corners of our society hides a common menace: child trafficking—a dark plague for countless countries. This is a pandemic that leaps into cultural boundaries and economic status to leave nothing behind but havoc. To withstand such malevolent activity, we are to stare into very harsh realities that it represents and undertake the difficult pathway of prevention.

Child trafficking goes across the geopolitics border, cultural difference, and economic disparities to cause destruction in lives that cannot be mended.

This, therefore, poses a clear indication that if this business of malice must be done away with, then it only has to address uncomfortable truths. At the heart of this whole issue lies, then, the nagging question of why child labor could continue in people's daily lives. Its persistence lays bare the different forces that either put it in place or act as stimuli for its propagation.

Poverty becomes a great pushing factor whereby the families are vulnerable to the financial pressures that make them get into sacrificing their children for survival, where promises of financial gain only propel the trade forward, as organized crime gains heavily from the trafficking and exploitation of children. Differential actions in prevention, some of which are to be implemented in this respect, are to prevent this child trafficking menace. The said actions could be either a matter of global alertness or on-site education. Moreover, the support and rehabilitation of survivor's underline hope in human resilience. And thus, we have a moral responsibility that forms part of this worldwide community to expose this menace and work untiringly for the salvation of every child from human trafficking.

**Keywords:** Child Trafficking, UNICEF, Palermo Protocol, SAARC Convention, SARP, CRC



## **INTRODUCTION**

The protection of the children and the care that befits them can be addressed by these challenges through a multifaceted approach that includes, among others, the governments, non-governmental organizations, and international bodies. Law enforcement mechanisms should hence be strong and supported by effective legal frameworks aimed at the criminal being deterred and the accountable ensuring responsibility in case of violations. This, awareness, and education programs increase the local community's knowledge of trafficking signs and help them avoid the children from falling a victim. Another area in which governments must allocate funds in terms of social welfare programs is through availing support and rehabilitation services to the victims to enable them to rehabilitate back into society successfully. Like many other problems, child trafficking is multi-faceted in nature and is actually influenced by numerous factors, which contribute to its existence.

Basically, the root causes that hugely compel children into the hands of traffickers include issues of poverty, ignorance, armed conflict, and social discrimination. Most of these kids are enticed by these hooligans who take advantage of their vulnerable conditions by alluring them with deceitful inducements for a better life, education, or lucrative jobs. Children are trafficked into the country through abduction, trading, or even coercion, which is for the purpose of exploitation such as forced labor, sexual abuse, or even involving them in criminal activities. Child trafficking requires international cooperation in fighting against it. The countries need to work in coalition through sharing intelligence, harmonizing legal measures, and also increasing the border controls to a level that traffickers have no chances of plying their trade. International Organizations: UNICEF and INTERPOL have demonstrated an ideal example of international organizations well coordinated by the international community in combating human trafficking through protecting children in addition to prosecuting the culprits.

Child trafficking is a grave violation of human rights that demands immediate attention and global coordination. Through addressing these root causes with strict laws, awareness, and international cooperation, society will do away with this abomination reality and secure from now on a safe future for all children. Child trafficking has its consequences, and they are very grave, bringing about excessive harm to the physical, emotional, and psychological status of the victims. Mostly, such children pass physical, sexual, and psychological abuses that may lead to critical mental health problems such as depression, anxiety, and post-traumatic stress



disorder. Further, children trafficking disadvantages a child on the right of education, hampering the development of their intellectual and social capabilities, while at the same time providing a launching pad to poverty and vulnerability.

## **INTERNATIONAL INSTRUMENTS FOR COMBATING CHILD TRAFFICKING: A COMPREHENSIVE ANALYSIS**

Child trafficking is a harsh human rights violation and one of the most important issues at the global level. The international community has to show unity for its elimination from the world on an emergency and priority basis. Very many young people still suffer due to the misuse of vulnerable youngsters, among them being forced to work, sexual exploitation, and organ trafficking. Bearing in mind such abominable crimes, this has designed very many international treaties that would create a framework on the prevention, prosecution, and protection of the trafficked minors<sup>1</sup>.

The United Nations Convention on the Rights of the Child (CRC)

The United Nations Convention on the Rights of the Child (CRC) is a hallmark international treaty that spells out the rights of children and lays standards to ensure their well-being, development, and protection. The CRC, the most accepted human rights treaty in the whole world, practically each country in the world has become its signatory<sup>2</sup>.

Rooted in the acknowledgment of children as distinct individuals entitled to specific rights and necessitating unique protection and care, the convention comprises 54 articles addressing diverse facets of children's rights, spanning civil, political, economic, social, and cultural domains<sup>3</sup>. Several key elements of the CRC include:

1. Non-discrimination (Article 2): The CRC underscores the principle of non-discrimination, asserting that all rights apply to every child without bias, irrespective of race, color, sex, language, religion, political or other opinion, national, ethnic, or social origin, property, disability, birth, or other status
2. Best interests of the child (Article 3): The paramount consideration in all actions and decisions affecting children should be the best interests of the child. This principle

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<sup>1</sup> United Nations Office on Drugs and Crime (UNODC). (n.d.). What is Human Trafficking?

<sup>2</sup> Committee on the Rights of the Child <https://www.ohchr.org/en/treaty-bodies/crc/introduction-committee>

<sup>3</sup> Convention on the Rights of the Child <https://www.ohchr.org/en/instrumentsmechanisms/instruments/convention-rights-child>

guides governmental bodies, caregivers, and institutions in prioritizing the well-being of children in policies and practices

3. Right to life, survival, and development (Article 6): Every child possesses the inherent right to life and the right to survive and develop to the fullest extent possible. Governments bear the responsibility of ensuring the survival and development of every child
4. Respect for the views of the child (Article 12): Children have the right to express their views on matters affecting them, and these perspectives should be accorded due consideration in alignment with the child's age and maturity. This emphasizes the importance of involving children in decisions impacting their lives.
5. Protection from violence, abuse, and exploitation (Articles 19, 32, 34): The CRC acknowledges the entitlement of children to protection from all forms of physical or mental violence, injury, abuse, neglect, or exploitation, necessitating measures to prevent and address such harm.
6. Education (Article 28): Every child has the right to education, with primary education being both free and compulsory. Education should be oriented toward fostering the child's personality, talents, and mental and physical abilities.
7. Health care (Article 24): Children possess the right to the highest attainable standard of health, obligating states to ensure access to healthcare services, encompassing preventive and rehabilitative care.
8. Cultural identity (Article 30): A child belonging to these groups or who has personal relations with these groups has the right to live his culture, practice his religion, and use his language. He also has the right to participate in cultural, artistic, and recreational activity.
9. Refugee and migrant children (Article 22): Article 22 goes ahead to say that children of refugees and migrants have to be accorded special protection and assistance to ensure that they are duly cared for.
10. Implementation and monitoring (Articles 43-54): Member countries of the CRC must undertake all such legislative, administrative, and other measures to give full effect to the rights enunciated in the convention. In addition, monitoring and reporting have existed within the system of the implementation of the CRC.

This convention is a highly comprehensive convention emphasizing the rights of children across the globe. That commitment means a commitment to the international community for the sake of building a world in which each child grows up in a safe, supportive, and nurturing

home where his or her rights are respected and protected. There have been strides that have been undertaken since its onset; however, challenges continue to persist and require ongoing effort in order to realize fully the rights of children the world over.

#### Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) Adopted in 2000

The United Nations introduced the Palermo Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, in 2000, as a supplement to its Convention against Transnational Organized Crime (UNTOC), or the Palermo Convention. This has developed a detailed international legal framework in the area of human trafficking, with special emphasis on the special vulnerability of women and children<sup>4</sup>.

The Palermo Protocol is structured around three primary components: prevention, prosecution, and protection. Let's explore each of these elements:

##### 1. Prevention:

- The protocol underlines the importance of, among others, human trafficking prevention through promotion of public awareness, educational programs, and social activities.
- The issues of trafficking need to be dealt with at the roots, such as poverty, education, and gender disparities.
- Encourage countries to support the cooperation of one another in their concerted efforts to take premeditated actions to increase efficiency<sup>5</sup>.

##### 2. Prosecution:

- The protocol creates a thorough legal framework that makes human trafficking illegal. This includes any activity related to the recruitment, transfer, harboring, or receiving of individuals through coercion, deception, or force<sup>6</sup>.

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<sup>4</sup> United Nations Office on Drugs and Crime (UNODC). (2000). Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

<sup>5</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime  
<https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

<sup>6</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (New York, 15 November 2000)  
[https://www.unodc.org/documents/treaties/Special/2000\\_Protocol\\_to\\_Prevent\\_2C\\_Suppress\\_and\\_Punish\\_Trafficking\\_in\\_Persons.pdf](https://www.unodc.org/documents/treaties/Special/2000_Protocol_to_Prevent_2C_Suppress_and_Punish_Trafficking_in_Persons.pdf)



- It calls for the enactment of domestic legislation to address trafficking offenses and prosecute those responsible.
- Measures regarding jurisdiction and extradition are outlined to facilitate cross-border prosecution of traffickers.

3. Protection:

- A significant focus of the Palermo Protocol is on safeguarding the rights of victims, recognizing them as individuals with rights rather than as criminals.
- Recommendations include measures to ensure the physical, psychological, and social recovery of victims, encompassing aspects like appropriate housing, medical care, and legal assistance<sup>7</sup>.
- Victims are encouraged to cooperate with law enforcement authorities, with the stipulation that their consent should be voluntary and informed.

In conclusion, the Palermo Protocol signifies a pivotal stride in the international community's commitment to addressing human trafficking. By addressing prevention, prosecution, and protection, the protocol provides a comprehensive framework for states to collaborate in eradicating this reprehensible crime, especially concerning the vulnerability of women and children. However, ongoing assessment and reinforcement of efforts by states are essential, given the evolving nature of human trafficking and the associated challenges in its eradication<sup>8</sup>.

SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002)

Human trafficking is a grave violation of human rights, particularly affecting women and children who are often forced into prostitution. Recognizing the urgency of addressing this issue, the South Asian Association for Regional Cooperation (SAARC) adopted the "Convention on Preventing and Combating Trafficking in Women and Children for Prostitution" in 2002.

Human trafficking is a global phenomenon that transcends borders, affecting vulnerable populations across regions. In the South Asian context, where socio-economic disparities

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<sup>7</sup> Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organized crime  
<https://www.unhcr.org/media/protocol-prevent-suppress-and-punish-trafficking-persons-especially-women-and-children-1>

<sup>8</sup> J N Ezeilo, 'Achievements of the Trafficking Protocol: Perspectives from the former UN Special Rapporteur on Trafficking in Persons', Anti-Trafficking Review, issue 4, 2015, [www.antitraffickingreview.org](http://www.antitraffickingreview.org)

persist, the trafficking of women and children for prostitution has emerged as a significant concern. The SAARC Convention of 2002 represents a collective effort by member states to tackle this issue through a regional framework<sup>9</sup>.

Mentioned below are some of the key provisions of the SAARC Convention:

1. Definition and Criminalization (Article 2): The convention suggests a full definition of trafficking, including the recruitment, transportation, transfer, harboring, or reception of persons through threat, use of force, or deception, for the purpose of prostitution. In such cases, members undertake to penalize them in their national law and admit that legal provisions are required for the struggle against human trafficking.
2. Measures for Prevention (Article 7): Bearing in mind the need to prevent this evil, the convention indicates that member states shall take measures to prevent, including information and education aimed at the general public and especially at children, as well as socio-economic initiatives aimed at the root causes of trafficking. It projects a more holistic view of crime prevention beyond mere punishment.
3. Protection and Assistance (Article 9): The convention, most of all, seeks to accord respect to the rights and well-being of the victim, and this would oblige member states to offer the victim both appropriate protection and assistance. These include judicial, medical, and psychological support, taking into account the vulnerability of trafficked persons.
4. Cross-Bjsnorder Cooperation (Article 11): Being transnational in nature, the traffic is transboundary. The Convention thus insists on the necessity of bilateral or multilateral cooperation among the states parties involved. The treaty calls on them to cooperate by exchanging information and coordinating efforts in law enforcement and the extradition of offenders so that they can face this crime together.

Though the SAARC Convention is considered a significant stride, the implementation of the Convention faces a big challenge. Its critics feel that there may be provisions in it which, if ratified in all the member states, may end up not getting properly implemented due to a lack of infrastructure and resources in some of the member states. The focus of the convention on prostitution as the most common, easily recognizable form of exploitation may limit how well

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<sup>9</sup> William, A. Thomas, (2008) "Child Trafficking: An Unconscious Phenomenon", Kanishka Publishers New Delhi

the convention can fight other forms of trafficking more effectively<sup>10</sup>.

The SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution is a crucial regional initiative that addresses the complex issue of human trafficking.

By providing a comprehensive framework that includes preventive measures, victim protection, and cross-border cooperation, the convention reflects a commitment by South Asian nations to work collaboratively in tackling this grave violation of human rights.

#### UNODC's South Asia Regional Programme (SARP)

Human trafficking, more so for purposes of prostitution in women and children, is a gross human rights violation and an international problem that demands organized efforts at regional levels. The United Nations Office on Drugs and Crime (UNODC) addresses the response to this global evil, and the South Asian region is one of the areas where the response needs emphasis.

##### 1. Background

UNODC launched South Asia Regional Programme (SARP) to raise the growing concern over the forced prostitution of women and children in the South Asia region. This, in fact, is within the high margins of lucrative profit enterprise that criminally exploits vulnerabilities, as identified by increasing cases of trafficking in human persons within reported and registered cases of South Asia.

##### 2. Objectives

Three main prongs of SARP aim at preventing the trafficking, protecting the victims, and prosecuting the offenders. The objective of the program, therefore, includes strengthening the criminal justice system and improving the capacity of the law enforcement agencies toward promoting regional cooperation among the South Asian countries<sup>11</sup>.

##### 3. Strategies Employed

SARP employs a comprehensive set of strategies to address trafficking in women and

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<sup>10</sup> Sreeradha Datta, "Regional Response to Human Trafficking: A Critical Analysis of SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution," *International Journal of Criminal Justice Sciences*, vol. 7, no. 2, 2012

<sup>11</sup> UNODC. (2019). South Asia Regional Programme Objectives.



children. These include:

- a. *Capacity Building*: SARP invests in training programs for law enforcement, border control, and judiciary personnel to enhance their ability to detect, investigate, and prosecute trafficking cases effectively<sup>12</sup>.
- b. *Victim Support*: The program emphasizes victim-centered approaches, providing support for the physical and psychological rehabilitation of victims. This includes medical assistance, counseling, and reintegration into society<sup>13</sup>.
- c. *Legislative Reforms*: SARP supports member countries in reviewing and amending existing legislation to align them with international standards, ensuring a robust legal framework to combat trafficking<sup>14</sup>.
- d. *Regional Cooperation*: SARP facilitates collaboration among South Asian countries, fostering information sharing, joint operations, and mutual legal assistance to combat cross-border trafficking<sup>15</sup>.

In conclusion, the UNODC's South Asia Regional Programme (SARP) stands as a vital initiative in the fight against the trafficking of women and children for prostitution in the South Asia region. Through its comprehensive strategies, SARP aims to address the complexities of this transnational crime and contribute to building a safer and more secure environment for vulnerable populations.

## **DOMESTIC LAWS IN INDIA: COMBATING CHILD TRAFFICKING**

Child trafficking represents a severe infringement of human rights and stands as a critical issue in India, where vulnerable children often find themselves coerced into various forms of exploitation. The Indian government has laid down a robust legal framework to combat child trafficking, uphold children's rights, and bring offenders to justice.

The Immoral Traffic (Prevention) Act, 1956

The Immoral Traffic (Prevention) Act, of 1956, commonly known as the "ITPA," is a primary piece of legislation in India designed to prevent child trafficking and sexual exploitation. The ITPA criminalizes multiple activities associated with prostitution and sexual exploitation, which includes the trafficking of minors for commercial sexual exploitation. It prescribes

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<sup>12</sup> UNODC. (2018). Capacity Building Initiatives.

<sup>13</sup> UNODC. (2017). Annual Report: South Asia Regional Programme.

<sup>14</sup> UNODC. (2021). Legislative Support

<sup>15</sup> UNODC. (2016). South Asia Regional Programme.

penalties for individuals involved in trafficking minors for sexual purposes, including brothel owners, pimps, and traffickers<sup>16</sup>. Furthermore, the ITPA emphasizes rehabilitation and rescue efforts for victims of trafficking<sup>17</sup>.

The ITPA passed in response to the ratification of the United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949), aims to prevent and combat human trafficking for commercial sexual exploitation<sup>18</sup>. The Act was amended in 1986 to broaden its scope and enhance its effectiveness<sup>19</sup>.

The following are the Key Provisions of the ITPA:

1. **Criminalization of Trafficking:** Section 5 of the ITPA provides for criminalization against trafficking in any person for the purpose of prostitution or other forms of sexual exploitation. According to the offense, the punishment includes imprisonment from 7 years to life.
2. **Punishment for Brothel-Keeping:** Section 3 of ITPA punishes keeping brothel and imposes punishment on the owner, manager, and runners. The purpose of this provision is to break down the structure of those establishments where from sexual exploitation can easily be done.
3. **Prohibition of Solicitation:** The use of solicitation for prostitution in public places is prohibited under penal provisions. Thus, this is an important clause in reducing demand for commercial sexual exploitation and making the potential victim less vulnerable.
4. **Rescue and Rehabilitation:** It has provisions of giving for rescue and rehabilitation of the victim, ensuring protection and welfare. Section 13 empowers the state to set up protective homes for the victims and prescribes measures for their rehabilitation and social reintegration.

While the ITPA is a vital legal tool in the fight against human trafficking, it faces challenges and criticisms. Some argue that the law inadequately addresses the root causes of trafficking, such as poverty and lack of education. Additionally, concerns have been raised about the effectiveness of law enforcement in implementing and enforcing the Act uniformly across

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<sup>16</sup> Immoral Traffic (Prevention) Act, 1956, Section 6.

<sup>17</sup> Immoral Traffic (Prevention) Act, 1956, Section 13.

<sup>18</sup> United Nations, "Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others," 1949.

<sup>19</sup> The Immoral Traffic (Prevention) Amendment Act, 1986, India.

different regions<sup>20</sup>.

The Juvenile Justice (Care and Protection of Children) Act, 2015

The Juvenile Justice (Care and Protection of Children) Act, 2015, is a principal legislative mechanism in India for taking care of and protecting a state of children. It addresses dealing with countering sexual and forced labor types of exploitations of a child through trafficking. It mandates the establishment of a Child Welfare Committee (CWCs) and a Juvenile Justice Board (JJBs) for offering proper care and protection to trafficked children<sup>21</sup>.

The JJ Act, 2015, includes specific provisions that address the issue of child trafficking:

1. *Definition and Recognition:* The Act defines a child as any person below the age of eighteen years<sup>22</sup>. It recognizes that children are vulnerable and need special care and protection, emphasizing their right to a safe and nurturing environment.
2. *Special Juvenile Police Unit:* Section 63 of the Act mandates the establishment of a Special Juvenile Police Unit to handle offenses related to children, including trafficking. This unit plays a crucial role in investigating and preventing child trafficking cases.
3. *Rehabilitation and Social Reintegration:* The Act emphasizes the rehabilitation and social reintegration of children who are victims of trafficking. Section 21 outlines the processes and measures to be taken for the rehabilitation of children, considering their best interests.

The Juvenile Justice (Care and Protection of Children) Act, of 2015, is a significant legal instrument in India's efforts to combat child trafficking. By recognizing the unique vulnerabilities of children and prioritizing their rights, the Act contributes to the broader goal of creating a safer and more secure environment for the nation's youth<sup>23</sup>. However, ongoing efforts are required to address implementation challenges and enhance collaboration at the national and international levels to effectively eradicate child trafficking.

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<sup>20</sup> Smriti Kak Ramachandran, NCW Chief for Legalising Sex Trade, THE HINDU (Oct. 28, 2014),

<sup>21</sup> Juvenile Justice (Care and Protection of Children) Act, 2015, Section 29.

<sup>22</sup> The Juvenile Justice (Care and Protection of Children) Act, 2015, section 2(12)

<sup>23</sup> Kumari, V. (2017) The Juvenile Justice (Care and Protection of Children) Act 2015- Critical Analysis, Universal Law Publications



### The Prohibition of Child Marriage Act, 2006

Child marriage often intertwines with child trafficking, leading to the trafficking of young brides for forced labor or sexual exploitation. The Prohibition of Child Marriage Act, of 2006, deems child marriages illegal and prohibits the trafficking of children for such purposes. It imposes penalties on those facilitating or participating in child marriages, thus addressing one of the root causes of child trafficking<sup>24</sup>.

The PCMA is a comprehensive legislative measure that seeks to prevent the solemnization of child marriages and provides for the annulment of such marriages if they do occur. Key provisions include:

1. Definition of Child Marriage: The Act defines child marriage as any marriage where either of the contracting parties is a child, i.e., a male below 21 years of age or a female below 18 years<sup>25</sup>.
2. Guardianship: The Act emphasizes the role of parents and guardians in preventing child marriages, holding them accountable for the well-being of the child<sup>26</sup>.
3. Offences and Penalties: The PCMA imposes stringent penalties on those who perform, promote, or abet child marriages, including imprisonment and fines<sup>27</sup>.
4. Annulment of Child Marriage: The Act provides for the annulment of child marriage at the request of the contracting party who was a child at the time of marriage<sup>28</sup>.
5. Child Marriage Prohibition Officers: The legislation designates officers at various levels to prevent and address instances of child marriage, ensuring the effective implementation of the Act<sup>29</sup>.

While the abolition of child marriages is a significant step, its effective implementation is hindered by several obstacles. Social conventions, financial factors, and a lack of awareness have continued to maintain its practice even in its post-abolishment era.

India's commitment towards abolishing child marriage is not only in its national laws but in its compliance with international conventions and agreements, such as the Convention on the Rights of the Child (CRC). The PCMA is in harmony with provisions in the CRC, with a strong

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<sup>24</sup> Ghosh, Biswajit. 2007. Trafficking in Women & Children, Child marriage and Dowry: A Study For Action Plan in West Bengal. Kolkata: Unicef and Govt. of West Bengal.

<sup>25</sup> Prohibition of Child Marriage Act, 2006, Section 2

<sup>26</sup> Prohibition of Child Marriage Act, 2006, Section 3

<sup>27</sup> Prohibition of Child Marriage Act, 2006, Section 9.

<sup>28</sup> Prohibition of Child Marriage Act, 2006, Section 3 (2)

<sup>29</sup> Prohibition of Child Marriage Act, 2006, Section 13

emphasis placed in a multi-dimensional and child-sensitive manner.

The Prohibition of Child Marriage Act, 2006, stands as a crucial legal instrument in India's efforts to eradicate the deeply entrenched issue of child marriage<sup>30</sup>. By establishing a comprehensive framework, the Act not only criminalizes the act of child marriage but also strives to create a protective environment for vulnerable children. However, the success of the legislation depends on sustained efforts in raising awareness, addressing socioeconomic factors, and ensuring effective enforcement at all levels<sup>31</sup>.

#### The Bonded Labour System (Abolition) Act, 1976

Child trafficking for forced labor, particularly bonded labor, remains a significant concern in India. The Bonded Labour System (Abolition) Act, of 1976, strives to eradicate bonded labor, encompassing child labor, by declaring the practice of bonded labor as illegal and stipulating penalties for those exploiting children in this manner<sup>32</sup>. This Act plays a pivotal role in combating child trafficking for forced labor.

#### Key Provisions Addressing Child Trafficking

1. *Prohibition of Bonded Labour (Section 4)*: This section clearly states that the Act prohibits bonded labor of any form, including work by a child to pay off debt. This clause would be effective in addressing the linkage of bonded labor with child trafficking since children are generally the most susceptible and the easiest prey in this system of exploitation.
2. *Release and Rehabilitation of Bonded Labourers (Section 6)*: According to Section 6 of the Act, the authorities have the power to get any bonded laborer released and rehabilitated. This is one of the most important provisions in the context of child trafficking because this will help to rescue the trafficked children and bring them back to society to offer them a scope for a better life in future.
3. *Responsibility of District Magistrate (Section 10)*: Section 10 imposes the responsibility on the District Magistrate for the effective implementation of the Act in his area of jurisdiction. This includes measures to prevent child trafficking for the

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<sup>30</sup> Agnes, Flavia (2011): Marriage, Divorce and Matrimonial Litigation, Family Law, Volume II (New Delhi: Oxford University Press).

<sup>31</sup> Thapan, Meenakshi. 2009. Living The Body - Embodiment, Womanhood and Identity in Contemporary India. New Delhi: Sage Publications.

<sup>32</sup> Bonded Labour System (Abolition) Act, 1976, Section 2.

purposes of bonded labor and coordination with enforcement agencies to provide for speedy prosecution of the offenders.

### Impact on Combating Child Trafficking

The Bonded Labour System (Abolition) Act, 1976, played a significant role in addressing bonded labour-related child trafficking. By prohibiting bonded labour and providing channels for victim release and rehabilitation, the Act aids in overall efforts to counteract child trafficking<sup>33</sup>. The proactive intervention role of District Magistrates aids in having a localized and specific intervention in addressing the issue, with regard for the specific challenge and dynamics of an area.

In conclusion, 1976 Bonded Labour System (Abolition) Act, is one of such legislative tools in curbing trafficked children. Not only does its provisions include bonded labour, but it forms part of a broader objective of safeguarding welfare and protecting trafficked children's rights. As India continues to grapple with the issue of trafficked children, proper and effective enforcement and application of such an act will remain a critical key in safeguarding and securing welfare of its children<sup>34</sup>.

### The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986

The Child and Adolescent Labour (Prohibition and Regulation) Act, of 1986, addresses the issue of child trafficking for labor purposes. It prohibits the employment of children in hazardous occupations and regulates their working conditions in non-hazardous industries<sup>35</sup>. This Act is indispensable in shielding children from exploitation and trafficking for labor.

### Historical Context and Legislative Framework

The Child and Adolescent Labour (Prohibition and Regulation) Act, which was promulgated in 1986, was a response to the widespread use of child labour in most regions, most of them hazardous ones. The act was drafted in a format that harmonised with international standards and took cognizance of concerns voiced through such organisations as the International Labour Organization (ILO). There have been a variety of amendments to the act over the years, with

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<sup>33</sup> M Afzal Wani, 'Abolition of Child Labour: International and National Perspectives' (2007) 1 Nyayakiran 29.

<sup>34</sup> Soumitra Kumar Chatterjee, 'Indian Constitution and Protection of Child Labour: A Study' 35:415 (2002) Labour & Industrial Cases 178.

<sup>35</sup> Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, Section 3.



an emerging concern for safeguarding adolescents and children against abuse.

### Key Provisions of the Act

1. *Obvious Provision Employment of Children:* Section 3 of the Act clearly provides that children shall not be employed in the occupations and processes that are mentioned. It states: "No child shall be employed or permitted to work in any occupation or process. All such participation is hereby prohibited.
2. *Regulation of adolescent labor:* the Act differentiates between children (up to 14 years) and adolescents (14-18 years) and provides a chance for the latter to work in non-hazardous occupations. However, it regulates the working hours and conditions of the adolescent.
3. *Penalties on Offences:* Under Section 14 of the Act, strict penalties are laid for every contravention against the Act, including imprisonment and fines. Employers can face severe consequences under whom children are found working in occupations or processes where employing children is prohibited.
4. *Emergence of Special Juvenile Police Units:* One of the core aspects of the Act is that it requires, in order to ensure its enforcement, that special Juvenile Police Units be set up to deal with juvenile cases, especially those to do with labor and trafficking.
5. *Reconstruction and Social Integration:* The Act focuses on the rehabilitation of the rescued children and rehabilitates measures for education and social reintegration. It also establishes giving the vocational training to rehabilitation homes.

In brief, an elaborate legal regime has been laid down in India to check against trafficking in children and to ensure the protection of their rights. Among the important legislations relevant to different dimensions of child trafficking are the Immoral Traffic (Prejson) Act, the Juvenile Justice Act, the Prohibition of Child Marriage Act, the Bonded Labour System (Abolition) Act, and the Child and Adolescent Labour Act. These are laws that together make child trafficking a crime, helping in rehabilitating the victims and ensuring protection and care of children. But more than this, what is needed is, in fact, the stringent execution of these laws and strict awareness and enforcement to cut down on child trafficking to ensure the secure future for the weak and vulnerable children of India.

## **CHILD TRAFFICKING: A REVIEW OF RELEVANT DECISIONS BY NATIONAL AND INTERNATIONAL COURTS**

Child trafficking is a reprehensible crime that continues to afflict societies globally, constituting a severe violation of human rights and causing enduring trauma to its victims. To address this pressing issue, courts both nationally and internationally have issued relevant rulings aimed at combating child trafficking and holding perpetrators accountable.

### National Initiatives

Many governments of the world take astonishing strides against child trafficking through well-thought-out approaches to programs. Normally, these include others' various mixes of regulations, law enforcement activities, and social initiatives in the field of prevention and support for the victims. By ensuring tougher sanctions against the traffickers and protecting the victim better, the legal frameworks in countries have been boosted. The agencies have further come to know that some other formal security agencies have also developed specialized units and task forces that deal with child trafficking.

Prevention is part and parcel of this initiative, where many countries engage in the prevention campaign that focuses on the vulnerable communities, risks of child trafficking, identification, and reporting of suspicious activities, involving a lot of measures. Key hubs for education and outreach are often schools and community centers.

Rehabilitation processes are aimed at making their reintegration easy; therefore, designed in social care schemes to that effect. These are the social care schemes that provide these victims with such outlets as educational opportunities, health care service provision, or counseling services required for rebuilding their lives. In turn, great input from nongovernmental organizations and international partnerships can be realized through knowledge building, provision of materials, and creation of networks.

At the national level, courts play a vital role in addressing child trafficking within their jurisdictions. For example, India's Supreme Court has issued landmark rulings, such as the Vishal Jeet v. Union of India (2006)<sup>36</sup>, where the court mandated the establishment of a Special Task Force to investigate and prevent child trafficking, emphasizing the importance of

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<sup>36</sup> Vishal Jeet v. Union of India, (2006) 2 SCC 322.

proactive measures.

Similarly, in the case of *Bachpan Bachao Andolan v. Union of India* (2013)<sup>37</sup>, the Indian Supreme Court stressed the necessity of strictly implementing the Juvenile Justice (Care and Protection of Children) Act, 2000, and the Immoral Traffic (Prevention) Act, 1956, to effectively combat child trafficking. This decision underscored the existing legal framework for child protection and the prosecution of traffickers.

#### International Interventions

International organizations, governments as well as non-governmental organizations (NGOs) have championed the fight against child trafficking through a comprehensive legislative framework. The Popularly known as the Palermo Protocols, this Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children is a part of United Nations Convention against Transnational Organized Crime. This convention promotes shared understanding on child trafficking and calls for member states to adopt laws that deem such acts criminal and provide for punishment.

The fight against child trafficking has been further strengthened by regional agreements and conventions such as European Union's Directive 2011/36/EU which provided a basis for international cooperation and coordinated response.

Courts globally have played significant roles in combating human trafficking of children. International Criminal Court (ICC), committed itself to prosecuting those guilty of child trafficking as war crime: *Prosecutor v Ongwen* (2016) where recruitment and use of children soldiers in armed conflict are seen as war crimes<sup>38</sup>.

The International Court of Justice (ICJ) has addressed child trafficking in the context of human rights violations. In the *Case Concerning Armed Activities on the Territory of the Congo* (2005), the ICJ ruled that trafficking children for forced labor and sexual exploitation amounted to breaches of international humanitarian law, reinforcing the global commitment to combating child trafficking<sup>39</sup>.

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<sup>37</sup> *Bachpan Bachao Andolan v. Union of India*, (2013) 2 SCC 721.

<sup>38</sup> *Prosecutor v. Ongwen*, ICC-02/04-01/15, Judgment on the confirmation of charges (2016).

<sup>39</sup> Cathy Zimmerman and Charlotte Watts, WHO Ethical and Safety Recommendations for Interviewing

Child trafficking remains a serious global concern, and courts at both national and international levels have played a pivotal role in addressing this issue. The highlighted decisions in this exposition illustrate the legal framework and judicial dedication to preventing child trafficking, prosecuting offenders, and safeguarding the rights of vulnerable children<sup>40</sup>. By enforcing these decisions and bolstering international collaboration, we can strive to eliminate child trafficking and ensure a safer and more secure future for children worldwide.

## **CONCLUSION**

Finally, exploration of these obscured terrors related to child trafficking brings to light a very grim and pervasive problem in need of immediate attention and action. The complication of this issue is that poverty and illiteracy, along with institutional vulnerabilities, pose a ripe environment for exploitation. It gives a deep understanding of complexity for each factor that has to be avoided for trafficking children and intervened with effectiveness.

It requires a comprehensive effort in the battle against trafficking. Intensifying efforts in law enforcement means not only the arrest and prosecution of traffickers but also related to the global character of this crime. It is also essential that attention is drawn to the root causes of, for example, poverty and lack of access to education, to deal with vulnerabilities putting children at risk of trafficking.

On the way to prevention, it is thereby paramount to keep children's well-being and safety first, while assuring protection of the rights of children to live a secure and rewarding life. "Our commitment, as a society, should aim at breaking the cycle of exploitation and aspiring to provide a future for each child in which they will obtain the dignity and security that belong to them. It can only be aspired that hidden atrocities—in this case, child trafficking—by sustained collective efforts, are wiped from the face of the earth.

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Trafficked Women (Geneva, World Health Organization, 2003)

<sup>40</sup> Mohamed Y. Mattar, "Incorporating the five basic elements of a model anti-trafficking in persons legislation in domestic laws: from the United Nations Protocol to the European Convention", *Tulane Journal of International and Comparative Law*, vol. 14, No. 2 (2005)